

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

SALEDA SHAW, on behalf of C.S.

PLAINTIFF

V.

CIVIL ACTION NO.:1:21-CV-35-DAS

**KILOLO KIJAKAZI, ACTING
COMMISSIONER OF SOCIAL SECURITY**

DEFENDANT

MEMORANDUM OPINION AND JUDGMENT

The plaintiff, Saleda Shaw, acting on behalf of C.S., seeks judicial review of the Social Security Administration's decision denying the child's application for disability benefits. The ALJ found the child, C.S., did not have a severe impairment that caused more than minimal functional limitations. The undersigned, having reviewed and considered the record and briefs and having considered the applicable regulations and case law in this matter, finds the decision of the Commissioner of Social Security denying benefits must be affirmed.

FACTS

Saleda Shaw filed for SSI benefit for C.S. on February 25, 2019, with an alleged date of onset of December 6, 2018. The ALJ issued an unfavorable decision on June 25, 2020, finding C.S. did not have a severe impairment. The ALJ found the child has medically determinable impairments of bilateral otitis media with bilateral tube placement and respiratory syncytial virus infection (RSV). He determined the child had no severe impairments, finding his conditions caused no more than minimal functional limitations. To be found disabled, an applicant under the age of 18 must have a physical or mental impairment, or combination of impairments that result

in marked or severe functional limitations, which either have, or are expected to meet the twelve-month durational impairment.

ANALYSIS

The plaintiff's sole argument is that the ALJ erred in finding that C.S. did not have a severe impairment. The claimant was born on December 6, 2018. Relying on the low threshold for finding impairments severe, *Stone v. Heckler*, 752 F.2d 1099 (5th Cir. 1985), the plaintiff argues that this baby's upper respiratory tract infections, recurrent ear infections and hospitalization for an R.S.V. infection rise to the level of severe impairments. The court disagrees. C.S. has had recurrent upper respiratory problems which have been successfully treated. His recurrent ear infections required tube placement and when one tube fell out and the other ear became impacted with wax, a second set of tubes was placed and successfully treated this problem. The child also had a severe bout with R.S.V., requiring hospitalization, but was successfully treated for this illness and released.

Despite experiencing these illnesses, routine well-care visits show that C.S. hit all development milestones as expected. His records have been reviewed by two state agency medical consultants who agreed that he has no severe impairments. The ALJ accepted those opinions as persuasive because they were supported by the medical records. Accordingly, the court finds that the Commissioner's decision is supported by substantial evidence.

IT IS THEREFORE ORDERED AND ADJDUDGED, that the decision of the Commissioner is affirmed.

SO ORDERED this the 15th day of February, 2022.

/s/ David A. Sanders
U.S. MAGISTRATE JUDGE